IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Dirk Wertenbruch, et al	)	Confirmation No.: 3449
	)	
Application Serial No.: 10/664,264	)	Examiner: Ellen C. Tran
	)	
Filing Date: September 16, 2003	)	Art Unit: 2134

For: METHOD AND APPARATUS FOR CONFIGURING NETWORK DEVICES

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Commissioner for Patents
P.O. Box 1450
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REPLY BRIEF

Sir:

This Reply Brief is submitted in response to the Examiner's Answer mailed May 22, 2008 and in support of the Notice of Appeal filed on December 6, 2007.

I. STATUS OF CLAIMS

Claims 1-41 have been finally rejected and are the only subjects of this appeal.

II. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-41 stand rejected under 35 USC § 103(a) as allegedly unpatentable over Li (U.S. Pat. 6,012,088, hereinafter "*Li*") in view of Fijolek (U.S. Pat. No. 6,351,773, hereinafter "*Fijolek*").

III. ARGUMENTS

A. The Features of Claims 1-9 and 14-41 Are Not Taught or Suggested by *Li* or *Fijolek*

Appellants have argued that the feature of "obtaining, using the secondary signaling technology, a unique link identifier that is associated with the network link using the secondary signaling technology" is not taught or suggested by *Li* or *Fijolek*. Reasons and citations supporting this argument have been detailed on pages 6-9 in the Appeal Brief dated March 12, 2008 (hereinafter, "Appeal Brief").

In response, the Examiner alleged that this feature is taught in the *Fijolek* reference by asserting that the communication between a CMTS and a CM is being conducted on a "secondary signaling technology", and asserting that a subscription account number, a calling party number, or a MAC address is "a unique link identifier" (Examiner's Answer dated May 22, 2008, hereinafter "Answer", page 8 lines 18 to page 9 line 5).

The Examiner's argument is not persuasive, however, because there is no reasonable interpretation of the references that will both agree with the Examiner's assertions above and that will produce all of the features recited in Claim 1.

First, while the *Fijolek* reference states that there is communication between a CM and a CMTS on a data-over cable system when the CM makes a connection request for subscription service to the CMTS (*Fijolek* col. 31 lines 61-66), *Fijolek* then teaches that the CMTS "checks one or more databases for information about the CM that made the connection request. … The information may include a subscription account number, a calling party number, a MAC address, or other information". If "a subscription account number, a calling party number, a MAC address" is equated to "a unique link identifier", as asserted by the Examiner, then it is clear that it is the CMTS, not the CM, that obtains the unique link identifier. There is no disclosure in *Fijolek* that the CMTS, after obtaining "a subscription account number, a calling party number, a MAC address" from the one or more databases, communicates this information back to the CM.

Therefore, the *Fijolek* reference cannot teach "authenticating the network device to a

service provider by communicating the unique device identifier to the service provider over the network link using the primary signaling technology". As just discussed, it is the CMTS, not that CM, that obtained the "unique link identifier". In the *Fijolek* reference, the CMTS is itself the service provider, and has the ability to make decisions about whether to give the CM unrestricted access or temporary restricted access (see *Fijolek* FIG. 18 steps 334, 335, and 336; see also *Fijolek* col. 32 lines 32-28). That is, since the CMTS is itself the service provider, there is no reason for the CMTS to perform "authenticating the network device to a service provider by communicating the unique device identifier to the service provider over the network link using the primary signaling technology". There is no teaching or suggestion in *Fijolek* that the CMTS engages in further communications, over the primary signaling technology, with another service provider. Therefore, there is no reasonable interpretation of *Fijolek* that the CMTS performs the "authenticating" step in Claim 1.

The Examiner hinted that she is interpreting the CM to be performing the "authenticating" step (see Examiner's Answer page 9 lines 3-4; "It is the connection request [by the CM] with the Cable Modem Termination System [CMTS] that performs the authentication"). However, this interpretation is inconsistent with the Examiner's earlier assertion that the connection request from the CM to the CMTS is over the "**secondary signaling technology**". Claim 1 recites "authenticating the network device to a service provider by communicating the unique device identifier to the service provider over the network link using the **primary signaling technology**". There is no teaching in *Fijolek* that the connection request from the CM to the CMTS is communicated over both a primary signaling technology and a secondary signaling technology. Therefore, there is also no reasonable interpretation of *Fijolek* that the CM performs the "authenticating" step in Claim 1.

Finally, the CM cannot perform "authenticating the network device to a service provider by communicating the unique device identifier to the service provider over the network link using the primary signaling technology" because *Fijolek* does not teach the CM obtaining the unique device identifier. The Examiner had argued that the unique device identifier is included

in the connection request from the CM to the CMTS (Examiner's Answer page 9 lines 1-2), but this is erroneous. As discussed above, the *Fijolek* reference clearly describes that "a subscription account number, a calling number, a MAC address" is obtained by the CMTS from "one or more databases", not from the connection request. Since *Fijolek* does not teach the CM obtaining a unique link identifier using the secondary signaling technology, the CM would not have access to a unique link identifier that it can then use to authenticate to a service provider.

In sum, the Examiner's interpretations of the *Fijolek* reference address the features of independent Claim 1 in a piecemeal fashion without attention to how the features of Claim 1 relate to each other. When the features of Claim 1 are consider together, there is no consistent and reasonable interpretation of *Fijolek* that will produce all of the features of Claim 1.

Finally, the *Li* reference does not cure the deficiencies of the *Fijolek* reference. The Examiner has equated the "registration identification number" in *Li* to "a unique identifier". Although *Li* discloses using this "registration identification number" to authenticate a network device to a service provider over a "primary signaling technology" (i.e. telephone network; see *Li* col. 11 lines 54-58), this registration identification number was not obtained using a "secondary signaling technology". Rather, the registration identification number was shipped to a customer along with a network device (*Li* col. 10 lines 66-67). Furthermore, a combination of *Fijolek* with *Li* still fails to provide the features of Claim 1. As discussed above, *Fijolek* does not disclose a network device (i.e. CM) obtaining a unique link identifier using a secondary signaling technology. Therefore, *Fijolek* combined with *Li* does not teach or suggest "authenticating the network device to a service provider by communicating the unique device identifier to the service provider over the network link using the primary signaling technology", where the unique device identifier is obtained using the secondary signaling technology.

Since neither *Li* nor *Fijolek* teaches or suggests the features of Claim 1 discussed above, alone or in combination, Claim 1 is patentable over *Li* in view of *Fijolek* under 35 USC § 103(a).

Claims 2-9 and 14-41 either depend from Claim 1 or recite features similar to the features of Claim 1 discussed above. Consequently, it is respectfully submitted that Claims 2-9 and 14-

41 are also patentable over *Li* in view of *Fijolek* for at least the reasons set forth herein with respect to Claim 1.

The rejections of Claims 1-9 and 14-41 should be reversed.

B. Features of Claims 10-13 Are Not Taught or Suggested by *Li* or *Fijolek*

Independent Claim 10 is patentable over *Li* and *Fijolek* for at least the reasons set forth herein with respect to independent Claim 1, because *Li* and *Fijolek* do not teach "obtaining, using the ISDN line, an ISDN telephone number uniquely associated with the ISDN line" and "authenticating the network device to a broadband network service provider by providing the unique identifier to the service provider using ADSL communication over the ISDN line" recited in Claim 10. For the reasons stated above, *Li* and *Fijolek* fail to teach "obtaining, using the secondary signaling technology, a unique link identifier that is associated with the network link using the secondary signaling technology" and "authenticating the network device to a service provider by communicating the unique device identifier to the service provider over the network link using the primary signaling technology" as recited in Claim 1. Consequently, the references also fail to provide the more specific features of Claim 10.

The Examiner raised the same arguments with respect to Claim 10 as she did with respect to Claim 1. Therefore, Applicants respectfully submit that Applicants' reply to the Examiner arguments with respect to Claim 1 are also applicable to Claim 10, and that therefore Claim 10 is patentable over *Li* in view of *Fijolek* under 35 USC § 103(a).

Claims 11-13 depend from Claim 10. Consequently, it is respectfully submitted that Claims 11-13 are also patentable over *Li* in view of *Fijolek* for at least the reasons set forth herein with respect to Claim 10.

The rejections of Claims 10-13 should be reversed.

IV. CONCLUSION AND PRAYER FOR RELIEF

For the reasons set forth above, it is respectfully submitted that the rejections of Claims 1-41 lack the requisite factual and legal bases. Appellants respectfully request that the Honorable Board reverse the rejections of Claims 1-41.

Respectfully submitted,
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